

19/00899/APP
23rd July 2019

Erection of 4No new whisky storage warehouses with associated drainage and access retrospective permission to change a previously approved warehouse to a filling store (inclusive of welfare facilities) amend the previously approved drainage scheme details for the existing warehouses (Condition 9 of 17/00339/APP) and altered parking arrangements. Tamdhu Distillery Knockando Aberlour Moray for Ian MacLeod Distillers

Comments:

- A SITE VISIT has been carried out.
- Advertised as a departure from the development plan and for neighbour notification purposes.
- Application referred to committee under the approved Scheme of Delegation where the floor space for general industry/storage exceeds 2000m² (in this case 3862m²).
- One representation received.

Procedure:

- Payment towards provision of compensatory woodland planting received.

Recommendation Approve subject to the following;-

Conditions/Reasons

1. Within three months of the date of this decision notice a visibility splay of 4.5m x 90m shall be provided and maintained thereafter in both directions at the junction of the site access onto the private road, clear of any obstruction above 0.6m in height (measured from the level of the carriageway) as shown on previously submitted drawing 'Proposed Road Access Plans, Sections & Details 5929-17/ 302".

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users.

2. Within one month of the completion of the development an 'after' road condition video survey of the delivery and construction traffic routes from the B9102 Dandaleith – Grantown Road shall be submitted to the Council, as Planning Authority in consultation with the Roads Authority. Any damage to the road network, including the roadside verge, identified as a result of construction traffic and passing vehicles shall be 'made good' within three months of the completion of the development, unless otherwise agreed in writing with the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To ensure that the condition of the road does not deteriorate as a result of construction traffic associated with the development, in the interests of road safety.

3. A minimum of four car parking spaces shall be provided within the site prior to the completion of the development. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for staff/visitors/others in the interests of an acceptable development and road safety.

4. The rating level of noise associated with the development's filling store No. 3 operations shall not exceed the background sound level by more than 5 dB(A) at the nearest noise sensitive dwelling. Measurement and assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: In order to ensure the filling store operates so as not to cause an unacceptable impact upon neighbouring residential amenity

5. Unless otherwise agreed with the Planning Authority, in consultation with the Environmental Health Manager, the development's filling store No. 3 operations shall be permitted from 07:45 to 16:30 hours Monday to Thursday and 07:45 to 13:00 hours on Fridays only.

Reason: In order to ensure the filling store operates at times compatible with neighbouring residential amenity.

6. The approval hereby granted must be developed in accordance with the revised drainage information contained within the updated "Supporting Information" document prepared by SAC Consulting for Algo Design and Build in September 2019 and submitted under cover of email dated 4th November 2019.

Reason: In order to ensure the correct drainage information is adhered to.

Reason(s) for Decision

The Council's reason(s) for making this decision are:-

Whilst the proposal departs from several policies and the rural grouping designation within the Moray Local Development Plan 2015 (namely ED7, E9, IMP1 and Knockando (Lower) rural grouping statement) there are material considerations that justify approval as a departure from the Moray Local Development Plan. The site would occupy a well-defined, discrete and enclosed parcel of land enclosed by woodland and existing warehouses, close to two distilleries that would not compromise the wider aims of the Moray Local Development Plan, and would assist rural business growth. No other material considerations arose preventing approval of the development.

List of Informatives:

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

The new warehouses will require separate Hazardous Substances Consent and it is advised to undertake pre-application consultation directly with the Health and Safety Executive. It should be noted that the below informative from SEPA regarding surface drainage provisions for Major Accident (fire / explosion) contingency will be assessed as part of any Hazardous Substances Consent application for the warehouses and filling store, and the design should incorporate this provision.

During construction work the applicant and/or the developer should remain vigilant for signs of protected species including Bats, Otters, Badgers and Red Squirrels. If they come across any signs of these species or other European Protected Species, as listed in the Conservation (Natural Habitats) Regulations 1994 all work in that area must cease immediately and Scottish Natural Heritage or Moray Council must be contacted for further advice.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary.

The formation of the required visibility splays will involve the removal of trees and vegetation and the lowering of ground levels.

The developer should note that this development is served by a private road, which is not adopted by the Roads Authority.

Public utility apparatus may be affected by this proposal. Contact the appropriate

utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

SCOTTISH NATURAL HERITAGE has commented that;-

The site drainage arrangement during and after construction should ensure mitigation is in place such that no significant effect on the River Spey Special Area of Conservation occurs.

SEPA

Waste water drainage - The proposed septic tank proposal will be assessed under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) (CAR) guidance, as it requires registration and authorisation under CAR. We ask that the local team is contacted on Shaw House, Mid Street, Fraserburgh, AB43 9JN, Tel: 01346 510502 for further advice.

It would be advisable that the applicant provides a demonstration of the sufficient capacity of the stormcell arrangement for the amount that could be credibly lost to ground in a warehouse Major Accident (fire / explosion), linking back to the site's Environmental Risk Assessment (ERA). The concern would be effects of inundation with flammable spirit potentially affecting escalation / emergency response to a warehouse fire.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
PL-01 B	Location plan
PL-02 B	Site block plan
PL_03	Elevations and floor plan
PL_04	Floor plan section and construction specifications



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
19/008999/APP

Site Address:
Tamdhu Distillery
Knockando

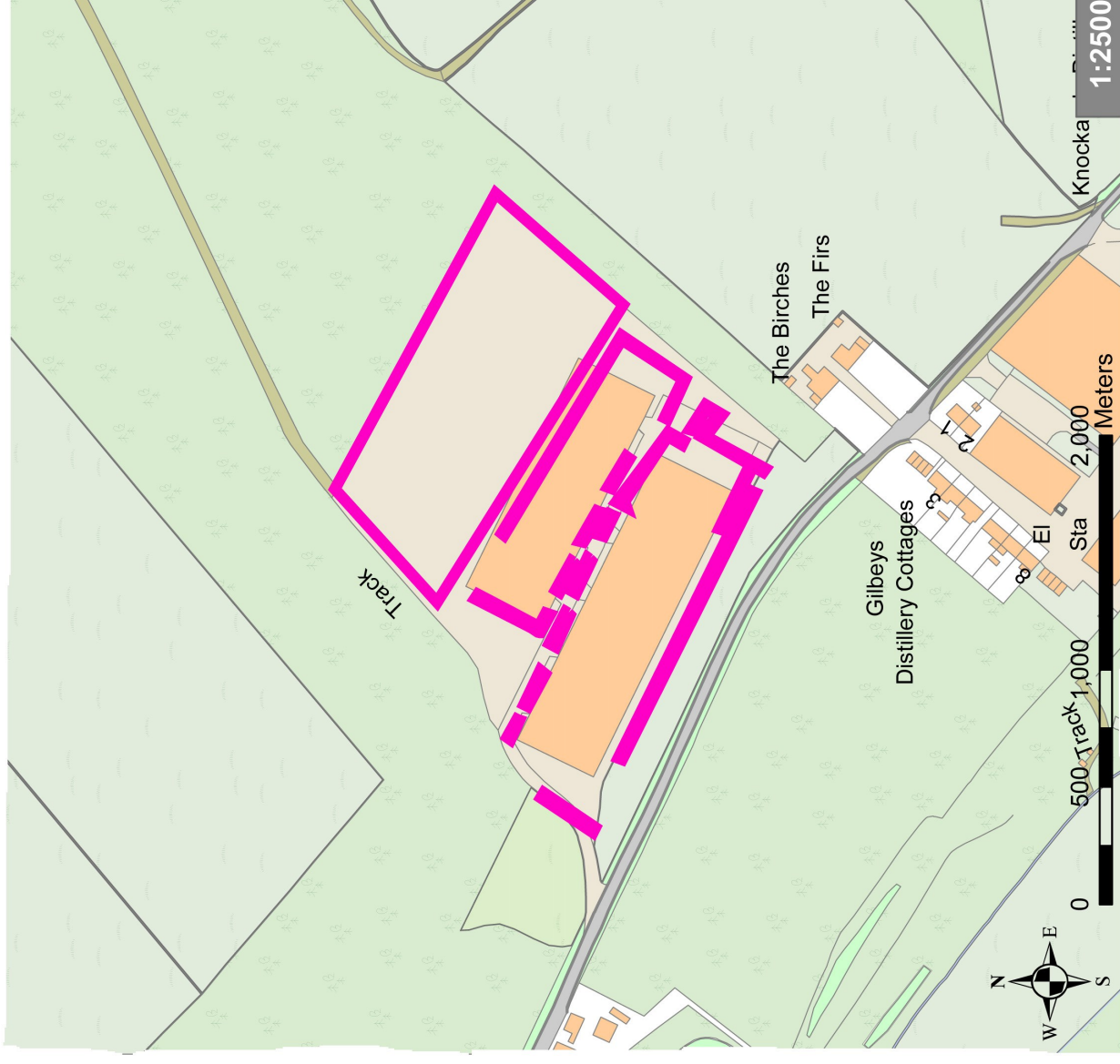
Applicant Name:
Ian MacLeod Distillers

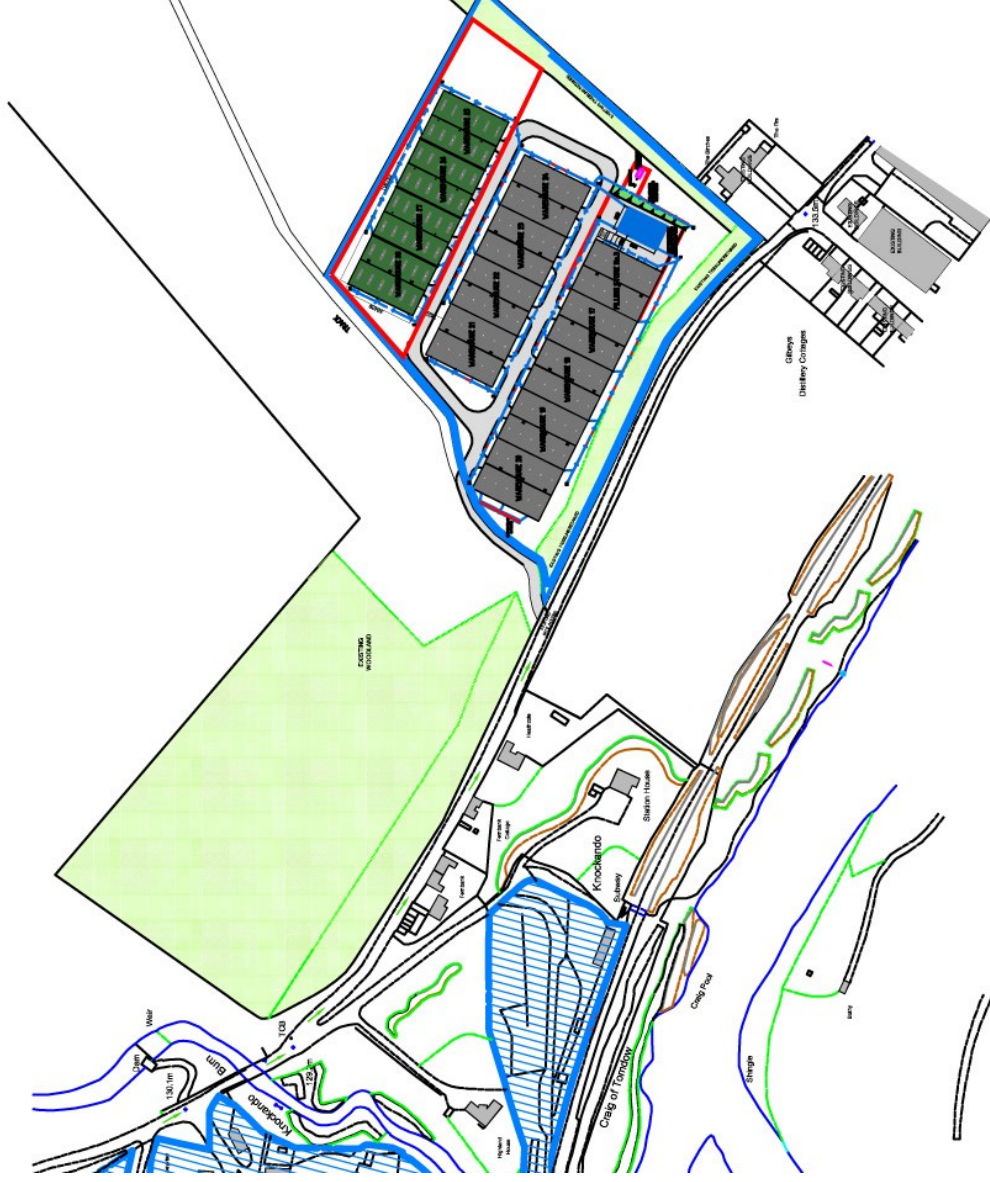
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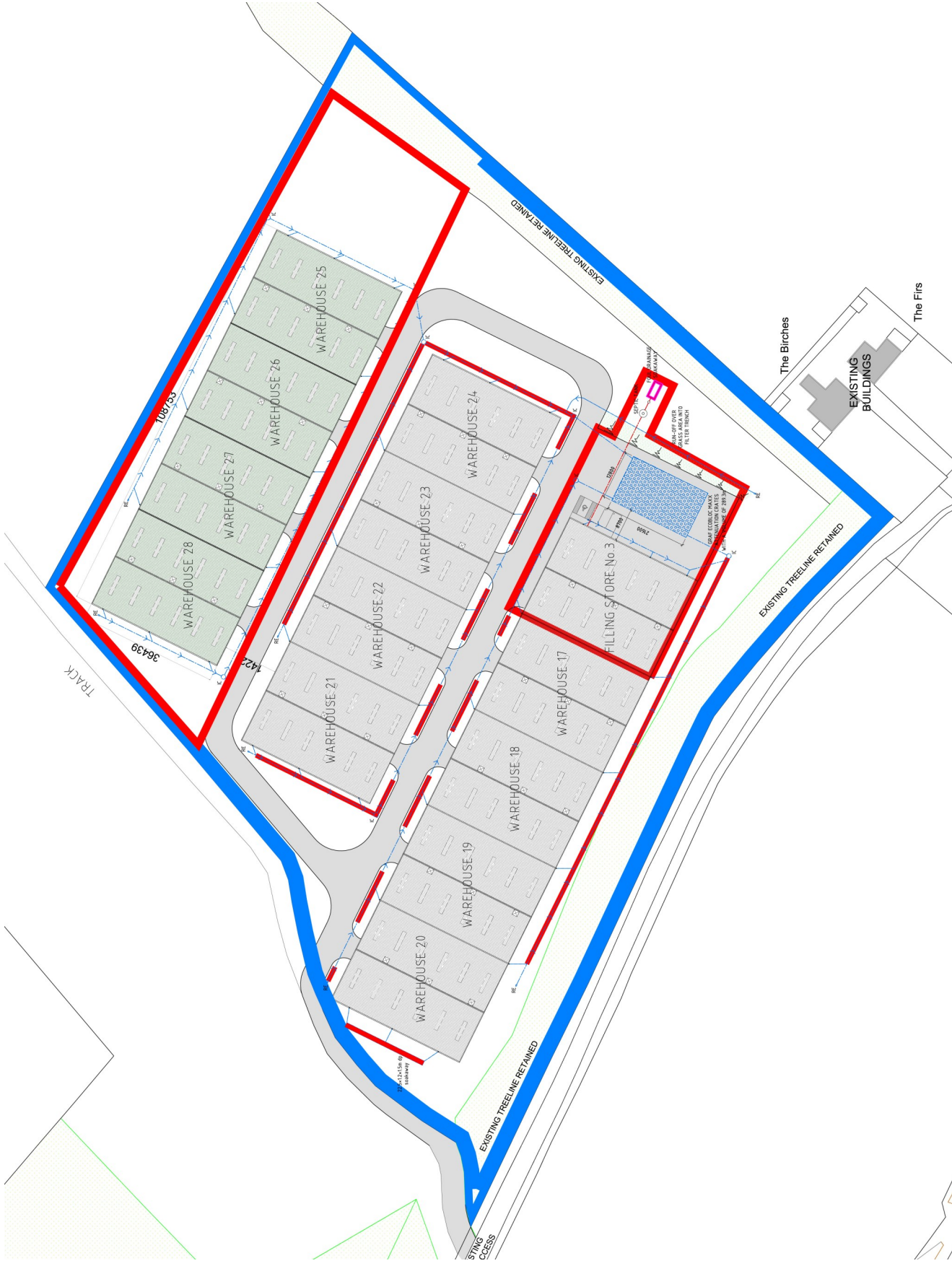
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Location Plan





[illegible]





PLANNING APPLICATION: 19/00899/APP

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

THE PROPOSAL

- Application for the erection of 4 new bonded warehousing (Class 6 Storage and Distribution) and associated works on ground to the east of Tamdhu Distillery.
- The application also comprises a retrospective element;-
 - to change the use of one of the previously approved warehouses (17/00339/APP see history) to a filling store (inclusive of welfare facilities)
 - amend the previously approved drainage scheme details for the existing warehouses (Condition 9 of 17/00339/APP)
 - altered parking arrangements at the existing warehouses.
- The proposed new buildings, consisting of one block of 4 joined warehouses, would have a gross floor space of 3862m² and finishes of juniper green profile sheeting to the roof and walls.
- The floor space of the warehouse that has been changed the filling store is 970 m² and includes a small ground floor area for staff in one corner of the building.
- Associated works would include the extension of the existing internal road system and drainage arrangements to serve the proposed new warehouses.
- Access arrangements would involve the use of the minor public road which joins onto the B9102 road to the north and internal road system. Improvements have already been made to the public road in the location.

THE SITE

- The site (0.98 hectares) is formerly woodland sitting to the north east side of Lower Knockando. The site appear to have been felled and levelled at the same time as the site was being prepared for the recently constructed warehouses
- The site is bound by other woodland to the west and north, new warehouses to the south, and to the south east by Knockando Distillery and associated distillery housing.
- The site is located within an Area of Great Landscape Value and within the catchment of the River Spey, which along with a number of its tributaries, has been designated as a Special Area of Conservation (SAC).
- The site sits close to but out with the Lower Knockando rural grouping as designated within the Moray Local Development Plan 2015 and as proposed within the Moray Local Development Plan 2020.

HISTORY

For the site:

17/00339/APP - Erection of 9no whisky storage warehouses at Tamdhu Distillery, Knockando approved by committee in July 2017. These warehouses are immediately adjacent and south of the current application site, and were constructed earlier in 2019. It is one of these warehouses that has been changed into a filling store, with staff facilities and is also where the amended drainage arrangements are located.

Elsewhere nearby:

17/00153/APP - Erection of 2 no whisky storage warehouses at Tamdhu Distillery Knockando Aberlour Moray AB38 7RP approved under delegated power on 10/04/17. These warehouses are located south west of Tamdhu Distillery.

17/00152/APP - Installation of a fish pass for upstream migration of fish on the Knockando Burn situated adjacent to the present intake weir at Tamdhu Distillery Knockando Aberlour Moray AB38 7RP. Application permitted on late April 2017.

16/01885/APP - Erect new malt intake erect new silos and access platform at Tamdhu Distillery Knockando Aberlour Moray AB38 7RP approved under delegated power on 07/02/17.

12/01548/APP - Erect whisky bonded warehouse at Tamdhu Distillery Knockando Aberlour Moray AB38 7RP. Approved by Committee on 07/12/12.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- The application has been advertised under neighbour notification procedures and as a departure from the development plan.

CONSULTATIONS

Forestry Commission - Consultation highlights the need for compensatory woodland planting. This matter is addressed through the payment being made by the applicant to the Council for compensatory planting elsewhere via the Woodland Trust.

Planning and Development Obligations - None sought for this application.

Moray Flood Risk Management - No objection, drainage information was updated to ensure up to date climate figures were used in the attenuation calculations.

SEPA - Approve subject to informative relating to drainage requirements.

Building Standards - A Building Warrant is required.

Transportation - approve subject to conditions and informatives.

Contaminated Land (Environmental Health) – no objections.

Environmental Health – recommend conditions to control the noise levels and times of operation of the filling store.

Private Water supplies (Environmental Health) – no objections.

Scottish Natural Heritage – no objection. SNH do comment that the surface water drainage arrangements during and after construction should take care not to impact upon the nearby River Spey Special Area of Conservation (SAC). An informative to this affect is recommended.

Scottish Water – no objection.

OBJECTIONS-REPRESENTATIONS

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the General Data Protection Regulations (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

A letter of representation has been received from:-

[REDACTED]

The grounds of representation or objection are summarised below.

Issue: If permission is given then there must be full protection of all wildlife flora and fauna.

Comment (PO): It is noted that the site which was previously woodland had been cleared, at what appears to be the same time as the adjoining warehouses were recently constructed. This will have resulted in the loss of some coniferous woodland habitat. The applicants are making a contribution toward off site compensatory tree planting which should go some way to off-setting the loss of habitat.

Issue: No demolition should take place until the Council are absolutely convinced that no bats are in situ. The bat mating season is approaching (letter written in August 2019).

Comment (PO): There is no demolition works proposed as part of the development. The mature coniferous woodland that was felled may have provided bat habitat, but the trees were in good condition during the previous site visit in 2017. The site had been cleared by the time of the site visit in 2019.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

In this case the proposal is not subject to a designated site.

The main issues are considered below.

Siting and Design and departure issues (ED7, E9, IMP1 and Lower Knockando rural grouping designation)

Policy E9 Settlement Boundaries defines the extent to which any settlement or rural grouping should expand within the lifetime of the development plan and to maintain a clear distinction between built up areas and the open countryside. In this case the proposals depart from the policy as it would result in built development outwith and near to the defined rural grouping boundary of Lower Knockando. The development site, does however sit adjacent to another warehouse development approved as a departure under 17/00339/APP (see history section) which has now effectively altered the settlement boundary.

Policy ED7 Rural Business Proposals permits new business development and extensions to existing industrial activities in the countryside providing this meets specified criteria regarding locational justification, siting, design, landscape, emissions, the environment and infrastructure. Given the site location immediately out with the settlement boundary, it was advertised a potential departure from policy ED7.

Policy IMP1 Developer Requirements seeks compatibility with the surrounding area and integration with the landscape. The application was advertised as a departure from this policy also given the previously stated conflict with its location and the adjoining rural grouping.

In terms of siting and visual impact, the submitted plans for the warehouses show them in a location surrounded by mature woodland or existing warehouses. Many of these trees are to be protected and retained under planning approval 17/00339/APP to the south of the current site, ensuring the existing enclosure is maintained. The buildings would sit behind the existing warehouse development of similar buildings to the south and given the surrounding woodland backdrop and elevated land to the north west and north east the warehouses would not dominate the skyline from any direction. The River Spey sitting to the south and east of this location is heavily forested and there are no public roads on the opposing bank from which the site would be prevalent. The site is therefore discretely located from close or distant views.

The low profile design of the proposed buildings (7m to eaves and 11m to the ridge) would represent an acceptable form of development, albeit a departure from policy E9 Settlement Boundaries. Neutral coloured finishes of juniper green profile sheeting to the walls and roof would further ensure that the development blends sensitively with its surroundings. Policy E7 Area of Great Landscape Value requires development proposals to incorporate the highest standards of siting and design and to not have a significant adverse effect on the landscape character of the area. The above mentioned siting and visual mitigation measures would also satisfy the requirements of E7.

In terms of amenity, the proposal which is in part for maturation storage, similar to the nearby warehousing, would not fundamentally alter the character of the wider area which is host to two distilleries. The eastern end of the site is where warehouses would come closest to residential properties approximately 100m to the south, but as the houses are not orientated towards the warehouses and are themselves set within a distillery, it is not considered that they will be detrimentally. The site would sit within a discrete location and would not affect or compromise the rural grouping, or be seen from the Speyside Way to the south. The altered warehouse to filling store results in little visible change to the previously approved warehouse.

On the basis of the above, the locational rationale for the warehouses, and precedent already set by the newly constructed warehouses straddling the Lower Knochando settlement boundary, and would support the local economy the current proposal would be an acceptable departure from ED7 Rural Business Proposals, E9 Settlement Boundaries and IMP1 Developer Requirements in terms of its siting. Whilst not formally consulted, the Strategic Planning and Delivery Manager following discussion agrees with the above conclusions on departure matters, noting that similar issues had arisen for 17/00339/APP closer too and straddling the rural settlement boundary.

Impact on Woodland (E4 and ER2)

Policies E4 Trees and Development, ER2 Development in Woodlands and the Councils own supplementary guidance on 'Trees and Development' seeks to ensure where a development irreversibly removes an area of woodland (in this case coniferous forestry land) it must be compensated for to ensure the woodland asset within Moray is not diminished or removed by development. These policies are in line with the requirement of the Scottish Government policy document Control of Woodland Removal. The application details show that an area of 0.75 hectares of woodland within the national forest inventory area would be lost by the development of warehousing (albeit already felled). The previously submitted ecology report for 17/00339/APP did encompass the area subject of the current planning application which identified the area to be host to mature coniferous plantation (Scots Pine and Larch).

In line with the above policies and guidance, the applicants considered various options but have agreed to make a financial contribution whereby a payment made to the Council is ring-fenced for use by Moray Council in conjunction with the Woodland Trust Scotland to provide compensatory woodland elsewhere in Moray, at a rate per hectare which is inclusive of several decades of forest management. The calculation in this case would relate to the 0.75 hectares identified and this payment has already been offered up front by the applicant. A payment of £9000 would be made in this regard and of note a similar larger payment was made for the loss of over 1 hectare under planning application 17/00339/APP in 2017. On the basis of the payment being made, the proposal would comply with the above policies.

Access (T2 and T5)

Policies T2 and T5 require provision of a safe/ suitable access onto the public road network and adequate parking facilities. The proposed access arrangements involving the use of the minor unclassified public road leading past Tamdhu toward Knockando Distillery have largely been provided under the previous planning application 17/00339/APP although it is noted that the visibility splay required at the access to the site has not been provided and is presently severely obstructed due to trees, vegetation and high bank in both directions. A condition is recommended to being about the timeous provision of that splay and as with the previous warehouses a condition also pursues the road survey to be undertaken to assess the impact on the local road network.

In terms of parking facilities and compliance with policy T5 Parking Standards, the proposed 4 parking spaces in association with the filling store are acceptable to the Transportation Manager.

Flood Risk (EP7 and EP8)

The application site (or parts thereof) lies adjacent to the 1 in 200 year (0.5% annual probability) flood envelope of the surface water ponding and flooding. As such the proposal requires assessment under the terms of policy EP7 Control of Development in Flood Risk Areas, including consultation with SEPA and the Council's Flood Risk Management Team who ultimately have raised no objection to the grant of planning permission having assessed the proposed surface water proposed drainage infrastructure.

Surface Water Drainage (EP5, EP10 and IMP1)

Policy EP5 Surface Water Drainage requires the provision of SUDs to handle any surface water arising from the development. This application includes some retrospective changes to the surface water system serving the now constructed warehouses approved under planning application 17/00339/APP, where the developer has now installed a filtration system dealing with surface water on site, and negating the need for an outfall southward toward the River Spey. The altered drainage scheme would also receive the surface water from the proposed block of 4 warehouses.

Although the proposed arrangements have been indicated on the plans and supporting information, further details/clarification of the proposed SUDs scheme were requested and was subsequently supplied. SEPA and the Council's Flood Risk Management Team confirmed that they are satisfied, subject to informatives.

The proposal would therefore comply with the requirements of policy EP5 Surface Water Drainage: Sustainable Urban Drainage Systems.

Nature Conservation (E1, E3 and IMP3)

Policy E1 Natura Sites and National Nature Conservation Sites aims to protect the integrity of such sites against inappropriate development. The proposal site lies within the catchment of the River Spey, which along with a number of its tributaries has been designated a Special Area of Conservation (SAC) and requires specific attention particularly during construction to ensure that no pollution of the river or impact upon protected species arises. Both SEPA and SNH have been consulted in this regard and have raised no objection to the granting of approval subject to an informative seeking to safeguard water environment.

It is noted that the site has already been cleared and levelled, but comfort is taken from the ecological statement submitted which confirms that protected species would not be compromised by the proposed development. This ecology statement was carried out in 2017 for planning application 17/00339/APP and did include the area covered by the current planning application, that found no evidence of key protected species on site. This was supported by a site walk over undertaken by the Planning Officer where no evidence of badger sets or latrines was detected.

An informative note is however recommended drawing the developer's attention to the fact that The Conservation (Natural Habitats &c.) Regulations 1994 make it illegal to deliberately or recklessly kill, injure, disturb or capture/take European Protected Species of animal or to damage or destroy the breeding sites or resting places of such animals. There are no other structures on the site that might play host to protected species, and the proposals are considered to comply with the above policy E3 Protected Species.

Developer Obligations (IMP3)

Policy IMP3 seeks contributions from developers where development would have a measurable adverse or negative impact on existing infrastructure, community facilities or amenity. In this case, there has been no contribution required. Improvements have been made to the local road network.

On the basis of the above the application is being recommended for approval.

REASON(S) FOR DECISION

The Council's reason(s) for making this decision are: -

Whilst the proposal departs from several policies and the rural grouping designation within the Moray Local Development Plan 2015 (namely ED7, E9, IMP1 and Knockando (Lower) rural grouping statement) there are material considerations that justify approval as a departure from the Moray Local Development Plan. The site would occupy a well-defined, discrete and enclosed parcel of land enclosed by woodland and existing warehouses, close to two distilleries that would not compromise the wider aims of the Moray Local Development Plan, and would assist rural business growth. No other material considerations arose preventing approval of the development.

**Author/Contact
Officer:**

Neal MacPherson
Principal Planning Officer

Ext: 01343 563266

**Beverly Smith
Development Management & Building Standards Manager**

APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP1: Sustainable Economic Growth

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

Primary Policy PP2: Climate Change

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sq m should address the following:

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected
- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development. This policy is supported by supplementary guidance on climate change.

Policy ED7: Rural Business Proposals

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.

- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

Outright retail activities will be considered against retail policies, and impacts on established shopping areas, but ancillary retailing (eg farm shop) will generally be acceptable.

Policy E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura site may be approved where;

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

National designations

Development proposals which will affect a National Park, Site of Special Scientific Interest (SSSI) or National Nature Reserves will only be permitted where:

- a) the objectives of designation and the overall integrity of the area will not be compromised; or
- b) any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

Policy E3: Protected Species

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

Policy E4: Trees and Development

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value.

Within Conservation Areas the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

Policy E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

Policy E9: Settlement Boundaries

Settlement boundaries are drawn around each of the towns, villages and rural communities representing the limit to which these settlements can expand during the Local Development Plan period. Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released for development under the terms of Policy H2.

(In accordance with policy H11, for proposals involving Gypsy/Traveller sites, a distance of 1km will be applied as being "immediately outwith".)

EP4: Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

Surface water from development should be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS). Drainage systems should contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy;

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.

- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
- Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
 - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
 - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
 - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- Civil infrastructure and most vulnerable uses;
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and
- An alternative, lower risk location is not available and
- New caravan and camping sites.

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved provided that:

- a) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and
- b) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/or treatment of any hazardous material.

The Council recommends early contact with the Environmental Health Section, which can advise what level of information will need to be supplied.

Policy EP10: Foul Drainage

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been specifically allocated within its current Quality Standards Investment Programme and the following requirements apply:

- Systems shall not have an adverse impact on the water environment;
- Systems must be designed and built to a standard which will allow adoption by Scottish Water.
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

Policy EP11: Hazardous Sites

The Council will have regard to the presence of major hazard sites, and apply the PADHI (Planning Advice for Development near Hazardous Installations) methodology for planning applications within the consultation distances around these sites. Formal consultations with the Health and Safety Executive and also the Scottish Environment Protection Agency (SEPA) will take place as appropriate.

Policy ER2: Development in Woodlands

All woodlands

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Protected Woodlands

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

Tree surveys and new planting

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

Policy T2: Provision of Access

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.

- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

Policy T5: Parking Standards

Proposals for development must conform with the Council's current policy on parking standards.

Policy IMP1: Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this

cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

Knockando (Lower)

A distillery complex within which the provision of gap sites is limited because of the predominantly industrial character of the community. As no other opportunities exist, the Council will permit the removal of trees at Site A to accommodate a number of house sites subject to compliance with policy ER2 - Development in Woodlands. Development of 4 or more houses must comply with placemaking and affordable housing policies (see page 3).

A public water supply is available but the public drainage system (septic tank, which serves only part of the community) is at present working to capacity.

Development will depend on the suitability of ground conditions for soakaways or the installation of an appropriate system to a watercourse with sufficient dilution. Developers must demonstrate that there will not be an adverse effect on the integrity of the River Spey SAC. Sufficient information will be required at planning application stage to confirm that adequate protection measures are able to be implemented to protect the water environment.

Any future residential development must consider the potential for excessive noise from existing noise sources in the vicinity. Applicants should have regard to noise measurement criteria which are appropriate.

Parts of Knockando (Lower) are at risk of flooding and applications for development may be asked to carry out a detailed Flood Risk Assessment.

Character Description: 5 Distillery Village.

Specific Character Features

- **Group B** buildings dominant.

Proposed Moray Local Development Plan 2020

PP2 SUSTAINABLE ECONOMIC GROWTH.

"Development proposals for employment land which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated. "

PP3 INFRASTRUCTURE & SERVICES.

Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. A Utilities Plan must be submitted with planning applications setting out how existing and new utility (including gas, water, electricity, pipelines and pylons) provision have been incorporated into the layout and design of the proposal.

a) Development proposals will need to provide for the following infrastructure and services:

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial, community and communal parking facilities. Access to charging points must also be provided for residential on plot parking provision. Car share parking spaces must be provided within communal parking areas where a need is identified by the Transportation Manager.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours.

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations.

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport, sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify,

at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP1 DEVELOPMENT PRINCIPLES.

This policy applies to all developments, including extensions and conversions and will be applied proportionately.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
 - g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
 - h) Existing stone walls on buildings and boundaries must be retained.
 - i) Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Minimal (25%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of

service vehicles with hammerheads minimised in preference to turning areas and to provide adequate space for the collection of waste and movement of waste collection vehicles.

- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines.
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

iii) **Water environment, pollution, contamination.**

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

BUSINESS & INDUSTRY

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

- b) **Business Parks.**

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

- c) **Industrial Estates.**

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

- d) **Existing Business Areas.**

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

- e) **Other Uses.**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (*sui generis*), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the

proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use.

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

g) Rural Businesses and Farm Diversification.

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

h) Inward Investment Sites.

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

EP3 SPECIAL LANDSCAPE AREAS AND LANDSCAPE CHARACTER.

i) Special Landscape Areas (SLA's).

Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area set out in the Moray Local Landscape Designation Review, adopt the highest standards of design in accordance with Policy DP1 and other relevant policies, avoid adverse effects on the landscape and visual qualities the area is important for, and are for one of the following uses;

- a) In rural areas (outwith defined settlement and rural grouping boundaries);
 - i) Where the proposal involves an appropriate extension or change of use to existing buildings, or
 - ii) For uses directly related to distilling, agriculture, forestry and fishing which have a clear locational need and demonstrate that there is no alternative location, or
 - iii) For nationally significant infrastructure developments identified in the National Planning Framework.
- b) In urban areas (within defined settlement, rural grouping boundaries and LONG designations);
 - i) Where proposals conform with the requirements of the settlement statements, Policies PP1, DP1 and DP3 as appropriate and all other policy requirements, and
 - ii) Proposals reflect the traditional settlement character in terms of siting and design.
- c) The Coastal (Culbin to Burghead, Burghead to Lossiemouth, Lossiemouth to Portgordon, Portgordon to Cullen Coast), Cluny Hill, Spynie, Quarrywood and Pluscarden SLA's are classed as "sensitive" in terms of Policy DP4 and no new housing in the open countryside will be permitted within these SLA's.

Proposals for new housing within other SLA's not specified in the preceding para will be considered against the criteria set out above and the criteria of Policy DP4.

Where a proposal is covered by both a SLA and CAT or ENV policy/ designation, the SLA policy will take precedence.

ii) Landscape Character.

New developments must be designed to reflect the landscape characteristics identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new roads and hill tracks associated with rural development must ensure that their alignment and use minimises visual impact, avoids sensitive natural heritage and historic environment features, including areas protected for nature conservation, carbon rich soils and protected species, avoids adverse impacts upon the local hydrology and takes account of recreational use of the track and links to the wider network.

EP6 SETTLEMENT BOUNDARIES

Settlement boundaries are drawn around each of the towns, villages and rural groupings representing the limit to which these settlements can expand during the Local Development Plan period.

Development proposals immediately outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated "LONG" term development site which is being released under the terms of Policy DP3.

EP7 FORESTRY, WOODLANDS AND TREES.

a) Forestry.

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of all other relevant Local Development Plan policies. The Council will consult Forestry Commission Scotland on proposals which are considered to adversely affect commercial forests.

b) Woodlands.

In support of the Scottish Government's Control of Woodland Removal Policy, development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where woodland is removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace within Moray.

Woodlands identified in the Ancient Woodland Inventory are important not just for the trees, but for the soil structure, flora and fauna that rely on such woodlands. Ancient woodland ecosystems have been created over hundreds of years and are irreplaceable. Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified in the Ancient Woodland Inventory will not be supported.

c) Trees and Tree Preservation Orders.

Development proposals must to retain existing healthy, mature trees and incorporate them within the proposal. Where mature trees exist on or bordering a development site, a tree survey and tree protection and mitigation plan must be provided with planning applications if the trees (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term.

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

Within Conservation Areas, the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO must be replaced, unless otherwise agreed by the Council.

EP14 POLLUTION, CONTAMINATION & HAZARDS.

a) Pollution.

Development Proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

b) Contamination.

Development proposals on potentially contaminated land will be approved where they comply with other relevant policies and;

- i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment, and
- ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites.

Development proposals must avoid and not impact upon hazardous sites or result in public safety concerns due to proximity or use in the vicinity of hazardous sites.